

order of the judge or justice in manner aforesaid, and these proceedings shall be a bar to any claim of damages on the part of any person for the said liquors and the vessels in which they are contained, or for the taking and detention of the same. And if the said owner or keeper when arrested upon such warrant and tried for the offense charged in said complaint, shall not establish either of the grounds of defense stated in the preceding section, and shall be found guilty of having said liquors, or any part thereof, kept or deposited as aforesaid for unlawful sale on the day aforesaid, or prior thereto, he shall be punished by a fine of twenty dollars and costs, and at the discretion of the judge or justice with the costs of the original proceedings in which said liquors were seized, and be imprisoned thirty days in default of the payment thereof, and the liquors, so as aforesaid seized and claimed, shall be adjudicated upon and disposed of, together with the vessels in which the same are contained; as is provided in the preceding sections of this act; and such adjudication shall be a bar as is therein provided.

Sec. 3. If any officer having a warrant issued under this act, committed to him directing him to seize any such liquors and to arrest the owner or keeper thereof, shall be prevented from seizing the liquors by their being poured out or otherwise destroyed, he shall arrest the owner or keeper and bring him before the magistrate, and he shall make return upon the warrant that he was prevented from seizing the liquors by their being poured out or otherwise destroyed, as the case may be, and in his return he shall state the quantity so poured out or destroyed as nearly as may be; and the magistrate shall put the owner or keeper so arrested upon trial; and if on the trial, it shall appear by competent testimony that such liquors so poured out or destroyed were such as were described in the warrant, and that they were so kept or deposited intended for unlawful sale, and if the person so arrested shall be found to be the owner or keeper thereof, he shall be fined and sentenced in the same manner he would be if the liquors described in the warrant and in the return had been seized on the warrant and brought before the magistrate by the officer.

Sec. 4. If any person shall appeal from any sentence of such judge or justice, as set forth in the preceding section, the judge or justice shall grant his appeal and order him to recognize in the sum of two hundred dollars with sufficient sureties for his appearance and for prosecuting his appeal, and he shall stand committed till the order is complied with. And the judge or justice whose judgment is appealed from shall furnish a full copy of all the papers and proceedings in the case at the expense of the appellant. And if judgment is rendered against the appellant in the appellate court, he shall be punished and the liquors seized, with the vessels in which they are contained, shall be dealt with, and disposed of, as before is provided. And if said appellant shall fail to appear and prosecute his appeal, or to abide and perform the order and judgment of the appellate court, the recognizance shall be forfeited and the liquor shall be disposed of as aforesaid by order of said court.

Sec. 5. It shall be the duty of any mayor, alderman, selectman, assessor, city marshal, or deputy, or constable, or police officer, if he shall have information that any intoxicating liquors are kept or sold in any tent, shanty, but, or place of any kind for selling refreshments in any public place, or near the ground of any camp-meeting, cattle-show, agricultural exhibition, military muster or public occasion of any kind, and shall believe said information to be true, forthwith to enter a complaint, before some judge of a municipal or police court or justice of the peace, against the keeper or keepers of such place, alleging in said complaint that he has reason to believe, and does believe, that such liquors are so kept in such place (describing the same) by such keeper or keepers, contrary to law. And upon such complaint, the said judge or justice shall issue his warrant, commanding the officer who may serve the same to search the place described in said complaint, and which shall be described in said warrant.

And if he shall find upon said premises any such liquors, to seize the same with the vessels in which they may be contain-

ed, and to arrest the keeper or keepers thereof, and have the said keeper or keepers with the liquors, and vessels so seized, as soon as may be, before said judge or justice, to be dealt with according to law.

And the officer to whom said warrant may be committed, shall forthwith execute the same, and said keeper or keepers when arrested shall be tried thereon, in due course of law, and upon proof that said liquors are intoxicating, that they were found in the possession of the accused, in a tent, shanty, but, or other place, as aforesaid, he or they shall be found guilty, and sentenced to be punished by imprisonment in the county jail for thirty days, and to pay all costs of such proceedings and the liquors and vessels so seized shall be destroyed by order of the court, in the manner before provided in this act. Any mayor or alderman, selectman, assessor, city marshal or his deputy, constable, police officer, or watchman, in his city or town, may take into his custody any such liquors, and the vessels in which they are contained, which he shall find at any place, by day or night, if he have reason to believe they are kept or deposited and intended for unlawful sale, at the place of seizure, and detain the same, until a warrant can be procured under which proceedings shall be had against such liquors, and the owner or keeper, in like manner as is provided in case of such liquors taken in a tent, shanty, but, or other place. If any person arrested, tried and sentenced, as set forth in this section, shall appeal from such sentence, the judge or justice shall grant the appeal and order him to recognize in the sum of one hundred dollars; with sufficient sureties for his appearance, and for prosecuting his appeal, and he shall stand committed till the order is complied with; and the judge or justice, whose judgment is appealed from, shall furnish full copies of all the proceedings in the case, at the expense of the appellant. And if judgment is rendered against the appellant, in the appellate court, he shall be punished and the liquors seized and vessels dealt with as is above provided in this section; and if said appellant shall fail to appear and prosecute his appeal, or to abide and perform the judgment of the appellate court, the recognizance shall be forfeited and the liquors and vessels shall be disposed of as aforesaid by order of the court.

Sec. 6. In all cases of appeal under this act, and that to which it is additional; from the judgment of such judge or justice, except where the proceedings are by action of debt, they shall be conducted in the appellate court by the prosecuting officer of the government; but no costs in such cases, shall be remitted or reduced by the prosecuting officer or the court. In any suit, complaint, indictment or other proceeding against any person for a violation of any of the provisions of this act, or that to which it is additional, other than for the first offense, it shall not be requisite to set forth particularly the record of a former conviction, but it shall be sufficient to allege, briefly, that such person has been convicted of a violation of any particular provision of this or the said act, or as a common seller, as the case may be, and such allegation in any civil or criminal process, legally amendable in any stage of the proceedings, before final judgment, may be amended, without terms, and as a matter of right. Any process, civil or criminal, legally amendable under this or the said act, may, in any matter of form, without costs; on motion, at any time before final judgment.

Sec. 7. Nothing in this act contained shall be construed to prevent any chemist, artist or manufacturer, in whose art or trade they may be necessary, from keeping at his place of business such reasonable and proper quantity of such liquors as he may have occasion to use in his art or trade, but not for sale; nor to prohibit the manufacture of cider, and sale thereof by the manufacturer.

Sec. 8. No such liquors owned by any city, town or plantation; or kept by any agent of any city, town or plantation, as is provided in the act to which this is additional, or by any such chemist, artist or manufacturer, shall be protected against seizure and forfeiture under the provisions of this and of said act, by reason of such ownership, unless all the casks and vessels in which they are contained shall be at all times plainly and conspicuously marked with the name of such city, town, plantation, and of its agent, or as

the case may be, with the name, residence and business, of every such chemist, artist, and manufacturer. No such agent shall have any interest in such liquors, or in the profits of the sales thereof. He shall not sell any such liquors to any minor, or servant, or apprentice, knowing them to be such, without the written order of the parent, guardian or master of such persons, not to any intemperate person, knowing him to be such, under a penalty of twenty dollars and costs for each offense. And if he knowingly makes sale any such liquors, for purposes not allowed by this and said act, he shall be liable to a penalty of twenty dollars and costs for each offense, and be removed from office, and his bond forfeited. If any such agent shall, knowingly and wilfully, with intent to prevent the same being seized on any such warrant, or to cause the same to be released, having been seized on such warrant, make claim to any such liquors, as being the property of the city, town, or plantation, for which he is such agent, when in fact such liquors were not the property of such city, town or plantation, he shall on conviction, be sentenced to pay a fine of one hundred dollars and costs, and shall be removed from his office, with forfeiture of his bond. Whenever any such liquors shall be seized, bearing such marks as are by this act required to be put upon liquors, owned by cities, towns or plantations, or by chemists, artists, or manufacturers, when such liquors are in fact not owned by any such chemist, artist or manufacturer, such false and fraudulent marking, shall be conclusive evidence that the same are kept or deposited for unlawful sale, and render them liable to forfeiture under the provisions of this act. The liquors kept for sale, by such agent, shall not be adulterated or factitious; and if the liquors so kept are adulterated or factitious, they shall not be protected from seizure and forfeiture by reason of being kept for sale by such agents.

Sec. 9. Whenever an unlawful sale is alleged, and a delivery proved, it shall not be necessary to prove a payment, but such delivery shall be sufficient evidence of sale. Whenever an unlawful sale is made by one person, a delivery by another; and payment received by a third, each shall be liable to the penalties of this and the said act for the offense. A partner in business shall be liable for the unlawful keeping or selling of his copartner done in the copartnership business, or by any other person, in any shop, store, or other place of business, of such copartnership, with his knowledge and assent. A principal and his agent, clerk and servant, may all be included in the same complaint and process. The name of the owner and the kind and quantity of liquors to be seized need not be set forth in the complaint and warrant, provided the description is sufficiently certain to show what is intended to be seized; the process may be amended in any matter legally amendable at any time before final judgment. Any mayor or alderman, selectman or assessor, may cause a suit to be commenced on any bond or recognizance given under this or said act in which his city, town, or plantation is interested, and the same shall be prosecuted to final judgment unless paid in full with costs. If any execution or other final process, issued in any civil or criminal suit instituted under this or said act; shall be placed in the hands of any proper officer to be by him executed, and he shall unreasonably neglect or refuse so to do, an action may be commenced against him by any voter in the county for such neglect, and prosecuted to final judgment, which shall be for the full amount of the debt, costs, and interests on such execution; and if it be a process that requires him to take and commit an offender to prison, the damages shall not be less than fifty dollars nor more than five hundred dollars. Such suit shall be an action on the case, in the name of the city, town or place, in which the original offense on account of which said process was issued, was committed, or which might be entitled to the proceeds of such original process.

Sec. 10. No writ of error, or other process, shall lie to quash or make void the doings of any such magistrate, under this or said act, by reason of any defect or want of sufficiency in any complaint, warrant, or other process, under this or said act, which might before final judgment have been amended on motion. In addition to the fees allowed by law, there shall be paid to such judge or justice, for

taking any bond, fifty cents; for making the order for the destruction of the liquors and vessels, fifty cents; to the officer for seizing the liquors and vessels, one dollar; for removing and keeping the same, fifty cents and reasonable expenses; for executing and making return of an order to destroy the liquors and vessels, one dollar; all of which fees shall be taxed in the costs to be paid by the defendant. All fines, forfeitures, and penalties, under this or said act shall go to the several cities, towns or plantations, in which the offenses are committed, for the use and benefit of the poor. If the offense is committed, or trial had in a plantation organized for election purposes, the fines forfeitures and penalties shall go to the plantation for the use of schools.

Sec. 11. No warrant shall issue for the search of any dwelling house in which or a part of which a shop is not kept, or other place is not kept for the sale of such liquors, unless it shall first be shown to the magistrate before a warrant is issued for such search, by the testimony of witnesses upon oath, that there is reasonable ground for believing that such liquors are kept or deposited in such dwelling house or appurtenances, intended for unlawful sale in such dwelling houses or elsewhere, which testimony the magistrate shall reduce to writing, and cause to be signed and verified by oath or affirmation of such witnesses, and upon such testimony so produced and verified, he may, upon complaint of three persons competent to be witnesses in civil suits, resident in the county, issue his warrant in like manner and form as is provided in the first section of this act, commanding the officer to search such dwelling house and its appurtenances, and if any such liquors are found therein to seize the same, together with the vessels in which they are contained, and also to arrest the owner or keeper thereof, if named in said complaint, and the subsequent proceedings shall be conformable to the requirements of the first section, or second section of this act, as the case may be. And any of the said witnesses who shall be convicted of giving false testimony, knowingly and wilfully, in the statements so subscribed and verified, shall be punished therefor by imprisonment in the state prison for the term of two years. The finding of such liquors, upon such search in a dwelling house, shall not of itself be evidence that they are kept or deposited therein intended for unlawful sale.

Sec. 12. Any person hereafter found intoxicated in any of the streets or highways, or being intoxicated in his own house, or any other building or place, who shall become quarrelsome, or in any way disturb the public peace, or that of his own or any other family, so as to render it necessary for the police or peace officers to interfere, may be taken into custody by any sheriff, deputy sheriff, constable, marshal, deputy marshal, police officer or watchman, and committed to the watch-house or restrained in some suitable place till complaint be made and warrant issued in due form on which he may be arrested and tried, and if found guilty of being so intoxicated in the streets or highways, or of being intoxicated in his own house or any other building, and becoming quarrelsome and disturbing the public peace, or that of his own or any other family, he shall be punished by imprisonment in the common jail for thirty days; but said judge or justice may remit any portion of said punishment, and order the prisoner to be discharged, whenever he shall become satisfied that the objects of this law and the good of the public and of the prisoner would be advanced thereby. And a case of appeal from in such sentence the same shall be granted as provided in the fifth section of this act, and on recognizance as therein required.

Sec. 13. In all cases under this or said act in which the punishment on the first conviction is a fine of twenty dollars and costs and commitment until paid, for the second conviction it shall be a fine of twenty dollars and costs and thirty days imprisonment; for the third it shall be a fine of twenty dollars and costs and sixty days imprisonment; and for the fourth and every subsequent conviction it shall be a fine of twenty dollars and costs and four months imprisonment. No person who shall be sentenced to pay any such fine and costs, and shall be committed in default of payment thereof,

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